

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3
4 United States of America,

5 Plaintiff,

6 vs.

7 Robert Kimmell,

8 Defendant.

Case No. 3:14-CR-00054-RCJ-VPC

ORDER

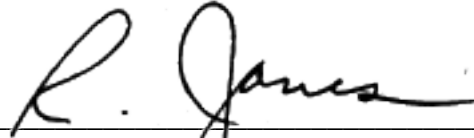
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10 In his Motion to Produce Evidence (ECF No. 164), the Defendant moves this Court to
11 compel the production of certain evidence for the purposes of the Defendant to later file a motion
12 to vacate sentence pursuant to 28 U.S.C. § 2255. However, as this Court has previously noted,
13 there is no authority for this Court to issue any production of evidence for this closed case after
14 trial, conviction, sentencing, and affirmation by the Ninth Circuit. The Defendant cites to no
15 precedent that would give this Court such a power. He claims that the Ninth Circuit allows for
16 post-trial subpoenas in *United States v. Krane*, 625 F.3d 568 (9th Cir. 2010); however, the Court
17 of Appeals made no such finding. In that case, the government had argued that subpoenas issued
18 for the purposes of sentencing were necessary. Even if the Ninth Circuit had affirmed the issuance
19 of those subpoenas, it would not affect whether subpoenas should be issued for this closed case.
20 Furthermore, even if the Court did have authority to issue such an order, the time for filing a §
21 2255 motion is passed. § 2255(f)(1) (“A 1-year period of limitation shall apply to a motion under
22 this section. The limitation period shall run from the latest of the date on which the judgment of
23 conviction becomes final.”). Thus, his motion is denied.
24

1 **CONCLUSION**

2 IT IS HEREBY ORDERED that Defendant's Motion for the Production of Evidence is
3 DENIED.

4 IT IS SO ORDERED.

5 DATED: This 7th day of October, 2019.

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9 ROBERT C. JONES
10 United States District Judge
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